

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.452 of 2016

IN

Civil Writ Jurisdiction Case No. 4750 of 2015

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1. Imran Ahmad, Secretary Madarsa Hashima Parsahi No.714, Son of Md. Kazim Qasmi, Resident of Kosi Colony (Therbitta West Puranwas), Police Station-Kishanpur, District- Supaul.

.... Petitioner/s

Versus

1. Md. Serajul Haq, son of Late Md. Sadique,
2. Md. Anwarul Haq, son of Md. Abid,
3. Md. Imamuddin, son of Mehmood @ Mohi,
4. Md. Ayub, son of Late Nathuni, All residents of Tharbitta East Punarwas, Block-Kishanpur, P.S. Kishanpur, Supaul.
5. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
6. The Secretary, Bihar State Madarsa Education Board, Patna.
7. The District Magistrate, Supaul.
8. The District Education Officer, Supaul.
9. The Rehabilitation Officer, Kosi, Programme, Supaul.
10. The Block Development Officer, Block- Kishanpur, District- Supaul.
11. Block Education Officer, Block-Kishanpur, Supaul.
12. The Director (Land Acquisition & Rehabilitation, Govt. of Bihar)

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Raj
		Mr. Karuna Kant Jha
For the Resp. 1 st Set	:	Mr. Ashhar Mustafa
		Mr. Murad Ashraf
		Mr. Vikas Jha
For the State	:	Mr. Ashish Ranjan, A.C. to A.A.G.-15
For the Board	:	Md. Rashid Alam

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE JUSTICE SMT. ANJANA MISHRA)

Date: 08-01-2018

The matter has come up for review of the judgment and order dated 11.05.2016 in C.W.J.C. No. 4750 of 2015. The case has come before us after the Apex Court refused to entertain the Appeal bearing S.L.A. (C) No (s). 22578/2016 (Secretary, Madarsa Hashmia Parsahi No. 714 Vs. State of Bihar through Principal Secretary,



Department of Education, Government of Bihar at Patna and Ors.). The Supreme Court granted the petitioner therein, leave to withdraw the Special Leave Petition with liberty to file a review petition before the High Court. The Special Leave Petition was accordingly dismissed with liberty sought for.

However, while parting with the matter, the Apex Court stated clearly as follows:-

“We make it clear that if the High Court declines to interfere with the impugned order, the petitioner shall not have the permission to file a fresh petition in this court.”

Nevertheless, the matter has come up for review before this Court on an application filed by one Imran Ahmad who was the Secretary of Madarsa Hashmia, Parsahi No. 714, resident of Kosi Colony (Therbitta East) Punarvash. The review-petitioner herein, was the Respondent No. 8 in the writ application and had appeared therein and filed counter-affidavit.

The writ petitioner had come to this Court in a P.I.L. which was filed by one Md. Seraj-ul-Haque and others, who were the residents of Therbitta East Punarvash, Block-Kishanpur, P.S. Kishanpur, District-Supaul and were displaced persons of the flood disasters of Parbhashi village and had been rehabilitated by the Government at an area namely Therbitta, East Punarvash. The main



dispute was with regard to shifting of Hashmia Madarsa No. 714 of Parsahi village at Therbitta Colony near his own residence to Therbitta West, which had caused great inconvenience to the residents of Parsahi Tola which had been officially rehabilitated at Therbitta East Punarvash.

It is evident from the judgment under review that this Court after giving full opportunity of hearing to all the parties at length and considering the rival submissions of all the parties, had passed orders in favour of the writ petitioners. The matter having been raised as a P.I.L., though not subject to adversarial litigation had been given full consideration on merits and it was only after hearing all parties that this Court in the interest of justice had directed that the Madarsa in question be directed to be allotted adequate land at the Therbitta, East Punarvash, so as to benefit the societal population of the displaced persons who had come to be residents of Therbitta East, Punarvash.

The review petitioner had also contended that the fact regarding the filing of the earlier writ application before this Court had been withheld from this Court but paragraph No. 9 clearly indicates that the same was placed before us. It is well-settled principal of law that this Court of review jurisdiction is limited and confined within a narrow compass. Review means judicial



examination of a case in certain specified and subscribed circumstances and can be entertained strictly in accordance with the provisions of Order 47 Rule 1 of the Code of Civil Procedure, 1908:-

“1. Application for review of judgment.-

(1) Any person considering himself aggrieved,-

- (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,
- (b) by a decree or order from which no appeal is allowed, or
- (c) by a decision on a reference from a Court of Small Causes,

And who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.”

It is thus evident that the power of review is available only when there is error apparent on the face of record and not on an erroneous decision. If the parties aggrieved by the judgment file a Review on the ground that it is erroneous, the only remedy available to him is to question the same order in an Appeal. In the instant case, the review petitioners have already availed the provisions of appeal and have been returned from the Apex Court with liberty for preferring the present review application before us.



It appears from the submissions of the Review Petitioners that there is no error apparent on the face of record and the present review application cannot be allowed to be entertained being in the nature of an Appeal in disguise. So far as questions of facts are concerned, we are also not able to appreciate how the same can be pleaded at this stage when ample opportunity had been afforded to each of the parties and since the matter had been fully contested by them by filing counter affidavits.

In the result, the present review application is devoid of any merit and continuance thereof would occasion miscarriage of justice as it does not suffer from any error apparent on the face of record.

It is accordingly dismissed.

(Dr. Ravi Ranjan, J)

(Anjana Mishra, J)

Saif/-

AFR/NAFR	AFR
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Uploading Date	
Transmission Date	

